

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

STATE OF TEXAS, *et al.*,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as  
Secretary of Health and Human Services, *et al.*,

Defendants.

Civil Action No. 5:22-cv-00185-H

**DEFENDANTS' MOTION TO DISMISS**

Defendants hereby move to dismiss Plaintiffs' Amended Complaint, *see* ECF No. 18, under Federal Rule of Civil Procedure 12(b)(1). As further detailed in the accompanying memorandum of law, also submitted in opposition to Plaintiffs' Motion for a Preliminary Injunction or Temporary Restraining Order, *see* ECF Nos. 22 (Motion), 23 (Memorandum, or "Pls.' Mem."), Plaintiffs' Complaint fails for threshold reasons, including standing, and should be dismissed for lack of subject matter jurisdiction. Moreover, Plaintiffs' motion fails to establish their entitlement to extraordinary preliminary relief, as Plaintiffs are unlikely to succeed on the merits of their claims and the balance of equities counsels in favor of denying Plaintiffs' motion for injunctive relief. A proposed order is attached hereto.

Dated: August 15, 2022

Respectfully Submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

BRIAN D. NETTER  
Deputy Assistant Attorney General

JENNIFER D. RICKETTS  
Director, Federal Programs Branch

ERIC B. BECKENHAUER  
Assistant Branch Director

/s/ Christopher R. Healy \_\_\_\_\_

CHRISTOPHER R. HEALY  
ALEXANDER N. ELY  
KATE TALMOR  
Trial Attorneys  
United States Department of Justice  
Civil Division, Federal Programs Branch  
1100 L Street NW, Washington, DC 20005  
Tel: (202) 514-8095; Fax: (202) 616-8470  
Christopher.Healy@usdoj.gov  
alexander.n.ely@usdoj.gov  
kate.talmor@usdoj.gov

*Counsel for Defendants*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

STATE OF TEXAS, *et al.*,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as  
Secretary of Health and Human Services, *et al.*,

Defendants.

Civil Action No. 5:22-cv-00185-H

**[PROPOSED] ORDER GRANTING DEFENDANTS' MOTION TO DISMISS**

Before the Court is Defendants' Motion to Dismiss for Lack of Subject Matter Jurisdiction.

After due consideration of the briefing, arguments, evidence presented, and applicable law, the  
Court hereby GRANTS Defendants' Motion. SO ORDERED.

DATED: \_\_\_\_\_

\_\_\_\_\_  
JAMES WESLEY HENDRIX  
UNITED STATES DISTRICT JUDGE